nature of the offence, the evil against which the law is directed, have in large part changed. If the language of the statute of 1 Ed. III. c. 14, and of Hawkins, 1 C. P. 462, sec. 38, is to be regarded, it seems that originally the taint of champerty was not due to any feeling that there was evil in the increase of lawsuits *per se*. It was owing to the fear that the purchasing and conducting of suits "by a great man of the realm" would have a "manifest tendency to oppression." To-day oppression, or illegal influencing of the courts, is out of the question, and the condemnation of champerty arises, as the tone of the case under discussion shows, from the feeling that it is undesirable for the courts to be annoyed by the multiplication of suits brought by persons with no interest of their own.

Admitting, however, that champerty, in its changed modern significance, is still objectionable, of what practical efficacy is the law of champerty as it stands to-day? Owing to the need of combining the three elements above mentioned, the question of whether or not an agreement is to be held champertous seems one of terminology. On the authority of this present case, a contract providing that an attorney is absolutely to receive 33⅓ per cent of the gain resulting from the suit is champertous, provided the other two elements be present. An agreement which reads that the attorney shall receive a fee contingent on and proportioned to the amount recovered is free from this taint. *Ramsey* v. *Trent*, 10 B. Mon. (Ky.) 341; *Major* v. *Gibson*, 1 Patt. & H. 48. Such being the case, it would seem that, to an attorney bent upon carrying out an affair of this nature, the law in regard to champerty would prove no great obstacle.

ACCORD AND SATISFACTION. — In the recent case of *Clayton* v. *Clark*, 21 So. Rep. (Miss.) 565, the Supreme Court of Mississippi has rejected the authority of the much quoted dictum in *Pinnel's Case*, 5 Rep. 117*a*, to the effect that a lesser sum cannot be satisfaction for a larger debt already due. The exact nature of the case under consideration is not made quite clear; but it seems that the defendant paid a smaller sum for a larger debt then payable, and that the plaintiff accepted it in full satisfaction of the debt. This is the construction put upon it by the court; and thus the question popularly supposed to be involved in *Pinnel's Case*, is directly raised.

The last important case which purported to pass authoritatively on the present question was *Foakes* v. *Beer*, L. R. 9 App. Cas. 605; but between that case and this there is an important distinction. There a smaller sum of money was paid in consideration of a promise by the creditor not to sue on the debt, and that was held not to create a binding contract. The cases cited in support of the decision were of the class in accord with the dictum in *Pinnel's Case*. That dictum, it is suggested, involved a different question from that in *Foakes* v. *Beer*, where the smaller sum was not paid in satisfaction of the debt. It was a new act to which the doer was not previously bound, done in exchange for a new promise; this was as true as if, while the debt existed, the smaller sum had been paid for a promise to convey a house, for instance. The transaction was distinct, and had no effect upon the debt itself. There would seem to be no reason why it should not have been held a valid contract, as in the parallel case of *Reynolds* v. *Pinhowe*, 1 Cro. Eliz. 429; and it is possible that it was held invalid only by reason of a false analogy.

It is evident then that the support given by *Foakes* v. *Beer* to the principle stated in *Pinnel's Case* was merely by way of dictum; and little other modern authority is to be found. Yet the principle has been sanctioned by lawyers of such eminence as Yelverton, Lord Coke, and Lord Ellenborough; it is supported by a few cases directly in point, and has been assumed in innumerable decisions. *Richards & Bartlet's Case*, 1 Leon. 19; *Fitch* v. *Sutton*, 5 East, 230. The lack of direct authority upon the point is to be explained mainly by the fact that it was not disputed. The courts in this country have shown little disposition to question the principle, and a conservative observer would declare that it had won its place in the common law.

It cannot be denied, therefore, that the Mississippi court has ignored authority. If, however, this neglect can be condoned, it must be admitted that a healthy conclusion has been reached. There is much force in Lord Blackburn's view (see *Foakes* v. *Beer*, *supra*) as to the possible benefit to the creditor who accepts the smaller sum, especially if the debtor is in danger of insolvency. Moreover, an analogy may be drawn with the rule of the law of contracts, whereby one party who has waived performance by the other is estopped from complaining of the consequent breach. There seems to be no reason for making a distinction when instead of a contract obligation there is a debt, and the creditor waives payment as to a part of it by accepting the smaller sum in full satisfaction. He should not afterwards be heard to complain of the non-payment of the remainder.

THE PLEDGEE OF NEGOTIABLE PAPER AS A BONA FIDE PURCHASER. — In a recent Montana case, *Yellowstone National Bank* v. *Gagnon*, 48 Pac. Rep. 762, it was held, in accordance with the established rule, that where the maker has a good equitable defence against the payee of a note, the indorsee before maturity, taking the instrument as collateral security for a debt of the indorser, is a *bona fide* purchaser only to the extent of the debt secured. Upon similar principles, a note given by a principal as indemnity to his surety is enforceable only to the extent of the surety's payments. The courts also hold that, where paper is pledged by the party accommodated, the accommodating maker or acceptor is responsible only for the amount of the pledgee's claim against the pledgor. 2 Ames's Cases on Bills and Notes, 20.

It is conceived that the pledgee, in such a case as *Yellowstone National Bank* v. *Gagnon*, *supra*, being the legal holder of the instrument, would be entitled at common law to recover its whole face value. Yet, were this allowed, the pledgor would at once recover from the pledgee the amount in excess of the obligation secured, and the pledgor, in turn, would be compelled to pay over the money to the maker. It is to prevent this triple circuity of action that the law allows the maker a purely equitable defence to the action by the pledgee. The case would clearly be different, however, had the maker no defence against the pledgor. Under such circumstances the pledgee not only has the legal title to the paper, but cannot be met by the plea of circuity of action. He is permitted, therefore, to recover the full face value of the instrument, holding the amount in excess of his claim against the pledgor as the latter's trustee. If this were not the law, the maker might suffer the injustice of being subjected to two actions in regard to the same matter, — one by the